

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 3/3/08



MEMO ENDORSED

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February 26, 2008

BY HAND

Honorable Richard J. Sullivan
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Johnson v. City and State of New York Dep't of Corr., et al.,
07 CV 9795 (RJS)

Dear Judge Sullivan:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney for defendant New York City Department of Correction ("DOC") in the above-referenced matter.¹ This office recently learned that Captain Matthews and Correction Officer Remy may have been served with a copy of the summons and complaint in this matter on or about February 1, 2008. I am writing to respectfully request a sixty-day enlargement of time, until April 21, 2008, within which defendants Captain Matthews and Correction Officer Remy may answer or otherwise respond to the complaint.² I write directly to the Court because plaintiff is currently incarcerated and proceeding pro se in this matter. No previous request for an extension has been made by defendants Captain Matthews or Correction Officer Remy.³

The complaint alleges, inter alia, that plaintiff was subjected to excessive force and denied medical treatment. In addition to defendants DOC, Captain Matthews, and Correction Officer Remy, the complaint purports to name the "State of New York Department of

¹ Defendants respectfully submit that DOC is a non-suable entity.

² Although this office does not currently represent Captain Matthews or Correction Officer Remy, we respectfully make this request on their behalves in order that their defenses are not jeopardized while representational issues are being resolved.

³ By endorsement dated February 21, 2008, Your Honor granted defendant DOC's request for an enlargement of time to answer or otherwise respond to the complaint until April 21, 2008.

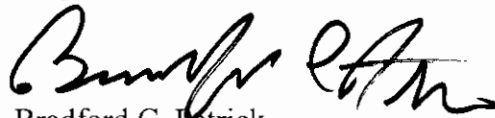
Correction" as a defendant. Before this office can adequately respond to the complaint, we will need to conduct an investigation into the facts of the case. The enlargement of time will afford us the opportunity to investigate the matter.

Moreover, the enlargement will allow us to ascertain whether Captain Matthews and Correction Officer Remy have been properly served. If proper service has been effectuated then, pursuant to Section 50-k of the New York General Municipal Law, this office must determine, based on a review of the case, whether we may represent the individual defendants. Captain Matthews and Correction Officer Remy must then decide whether they wish to be represented by this office. If so, we must obtain their written authorization. Only after this procedure has been followed can we determine how to proceed in this case.

In view of the foregoing, it is respectfully requested that the Court grant the within request extending defendants Captain Matthews and Correction Officer Remy's time to answer or otherwise respond to the complaint until April 21, 2008.

Thank you for your consideration in this regard.

Respectfully submitted,



Bradford C. Patrick
Assistant Corporation Counsel
Special Federal Litigation Division

cc: BY MAIL
David Johnson, DIN # 06-A-4464
Plaintiff Pro Se
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Request granted. No further extensions will be granted absent truly compelling circumstances.

SO ORDERED

Dated:

3/1/08

[Signature]
RICHARD J. SULLIVAN
U.S.D.J.